IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4174 OF 1996

Maharashtra Certified Auditors Association (Reg.), having their address at 34/5B, New Paccha Peth Solapur 413 006. ..Petitioner

V/s.

1. The State of Maharashtra (Throgh the Secretary Agriculture Animal Hasbandary Dairy & Fisheries Departemnt, Mantralaya.

2. The Commissioner for Co-operative & Registrar, Co-op.Societies, Maharashtra State, Pune -001.

3. The Officer on Special Duty, Audit Board, Maharashtra State, Administrative Building, 2nd flr. A.G.Khan Road, Worli Seaface, Mumbair - 400 018.

4. The Dairy Development Commissioner, Worli Seaface, Mumbai -400 018. ..Resopndents

---

Mr. R.P. Subban for the Petitioner.
Mr. V.P. Malvankar, AGP for Respondents.

CORAM : A.P. SHAH & S.U. KAMDAR, JJ.
DATED : 24TH SEPTEMBER, 2004

JUDGMENT :-(Per Kamdar,J)

. The present Petition challenges the Government Resolution dated 24th May, 1989, therein providing for recovery of 20% amount to be deducted from the Audit Fees of the Chartered Accountants and Certified

Auditors.

2. The few facts of the present case are as under:-

. The Petitioner before the Court, is a registered Association of the professional Chartered Accountants and Certified Auditors. The members of the Petitioner’s Association are engaged in co-operative audits in the State of Maharashtra. Some time, in or about 24th May, 1989, a Government Resolution was issued by the State of Maharashtra, interalia prescribing levy of 20% on the amount of fees recovered by the Chartered Accountants and Certified Auditors from various socieites, for carrying on work of the auditors. This amount was claimed as and by way of administrative charges.

3. By our judgment in Writ Petition No. 2632 of 1996 with W.P.No. 8812 of 2003 dated 13.08.2004, we have already struck down the circular issued by the Registered Co-operative Societies in exercise of power under Rule 74 of the Maharashtra Co-operative Societies Rules, 1961. We have also held that the Respondents have no authority to recover any charges,

either administrative charges or otherwise from the Chartered Accountants and Certified Auditors as and by way of deduction from their audit fees.

4. In view of our aforesaid judgment, we also allow the present petition. Accordingly, the present petition is made absolute in terms of prayer clauses (a) and (b). It is made clear that the members of the petitioner's association will be entitled to claim refund of the amount, unauthorisedly deducted by the State Government, pursuant to the said G.R. dated 24th May, 1989 and 1st November, 1995 only for a period of three years, prior to the date of the filing of the present petition.

5. Writ Petition is made absolute accordingly. There shall be no order as to costs.

.....